

By: Burkett

H.B. No. 381

Substitute the following for H.B. No. 381:

By: Herrero

C.S.H.B. No. 381

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the punishment for the offense of burglary of a vehicle;  
3 increasing a criminal penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 30.04, Penal Code, is amended by  
6 amending Subsections (d) and (e) and adding Subsections (d-2) and  
7 (d-3) to read as follows:

8 (d) An offense under this section is a:

9 (1) Class A misdemeanor if the amount of pecuniary  
10 loss to tangible personal property is less than \$1,500; [~~except~~  
11 that:

12 [~~(1) the offense is a Class A misdemeanor with~~  
13 ~~a minimum term of confinement of six months if it is shown on the~~  
14 ~~trial of the offense that the defendant has been previously~~  
15 ~~convicted of an offense under this section, and]~~

16 (2) [~~the offense is a~~] state jail felony if:

17 (A) the amount of pecuniary loss to tangible  
18 personal property is \$1,500 or more but less than \$20,000;

19 (B) the amount of pecuniary loss to tangible  
20 personal property is less than \$1,500 and it is shown on the trial  
21 of the offense that the defendant has been previously convicted two  
22 or more times of an offense under this section; or

23 (C) the amount of pecuniary loss to tangible  
24 personal property is less than \$1,500 and [~~(B)~~] the vehicle or

1 part of the vehicle broken into or entered is a rail car;

2 (3) felony of the third degree if the amount of  
3 pecuniary loss to tangible personal property is \$20,000 or more but  
4 less than \$100,000;

5 (4) felony of the second degree if the amount of  
6 pecuniary loss to tangible personal property is \$100,000 or more  
7 but less than \$200,000; or

8 (5) felony of the first degree if the amount of  
9 pecuniary loss to tangible personal property is \$200,000 or more.

10 (d-2) For the purposes of Subsection (d), the amount of  
11 pecuniary loss to tangible personal property is the sum of:

12 (1) the cost of repairing or restoring the vehicle, if  
13 the defendant damaged the vehicle in the course of committing the  
14 offense; and

15 (2) the fair market value of any tangible personal  
16 property the defendant stole from the vehicle, if the defendant  
17 committed theft in the course of committing the offense.

18 (d-3) If the defendant, pursuant to one scheme or continuing  
19 course of conduct, commits three or more offenses under this  
20 section in a 24-hour period, the conduct may be considered as one  
21 offense and the amounts of pecuniary loss aggregated in determining  
22 the grade of offense.

23 (e) It is a defense to prosecution under this section that  
24 the defendant [~~actor~~] entered a rail car or any part of a rail car  
25 and was at that time an employee or a representative of employees  
26 exercising a right under the Railway Labor Act (45 U.S.C. Section  
27 151 et seq.).

1           SECTION 2. Sections 3(h) and 4(f), Article [42.12](#), Code of  
2 Criminal Procedure, are repealed.

3           SECTION 3. The change in law made by this Act applies only  
4 to an offense committed on or after the effective date of this Act.  
5 An offense committed before the effective date of this Act is  
6 governed by the law in effect when the offense was committed, and  
7 the former law is continued in effect for that purpose. For  
8 purposes of this section, an offense was committed before the  
9 effective date of this Act if any element of the offense occurred  
10 before that date.

11          SECTION 4. This Act takes effect September 1, 2015.